

# EXHIBIT

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OLEAN CITY POLICE DEPARTMENT  
SUPPORTING DEPOSITION OF ROBERT P BELL

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CASE REPORT #: CA-03080-19

10/25/2019 10:21 -- MARSFELDER, MICHAEL (120208) --On Wednesday October 23, 2019 at approx. 4pm, I was getting ready to leave Central Fire as I was finishing my shift as the Fire Chief. I walked from my office on the second floor to go down to the bay area to talk to the fire captain on duty to let him know I was leaving. While I was in the bay area, I saw on duty Firefighters Bauer and Austin in the bay, and I saw that Firefighter Bauer was speaking with off duty Firefighter Melfi. Melfi was wearing his Firefighter uniform. At this point, Melfi started to walk toward me and while he was walking, he said, "Hey, you're just the person I wanted to see, I have a few questions to ask you." I said "well, you'll have to see me tomorrow, I'm going home." Melfi then asked, "So you're not going to meet with your employee?" and I said, "Do I look like I'm dressed to meet with you? If its that important, you need to come back tomorrow, and if you need to make sure I'm there you need to set up an appointment with my secretary." I was wearing sweatpants, my duty shirt, and sneakers, and my back pack that i carry home. He then said "so you don't want to address the concerns of your employees?" At this point I felt that through his tone and mannerisms, that he was starting to become aggressive. Due to this aggression, I wanted to make space between us and I went to the rear of the ambulance bay area. As I was doing that, I told him, "I'm not saying I'm not going to address these concerns, I'm saying that you need to calm down, leave, and come back tomorrow and we will discuss it." This conversation continued in the same manner with him wanting me to address it now, and me telling him to come back tomorrow several more times. At this point i wanted to leave, due to Melfi's aggressive manner and the fact that every time I took a step away then he would close the space back up, and as I was walking away, he followed me and said, "you don't want to hear about my captain hanging up on me today, you don't want to hear about my captain flagging while he was on sick leave?" He said that while my back was to him as I was walking away. At this point I turned around, and he was within arms reach of me. At this point, I felt due to Melfi's aggressive manner and proximity to me, that I needed to get a captain involved as i was seriously concerned that Melfi was going to attack me. I pointed at him, but I couldn't extend my arm all the way due to the fact that he was so close to me. I said "I am going to give you a directive. Where is the Captain?" I then noticed that the captain was not on the bay floor area, so i went up to the captains office and he followed me up there. The captain wasn't in his office, so I went through the locker room hall and Melfi was following me and he said, "Chief your house of cards are falling", I said to him, "you need to be careful, you're crossing the line." He then said, "what are you afraid of?" and I again said, "You need to be careful, you're crossing the line." He then said, "I'm just saying chief, your house of cards is falling." We end up back down in the ambulance bay, where we started, and I look at the front of the bay area, and Captain Jim Bennett was near the engine. I shouted to Capt Bennett that I needed him, and then when the captain got back to the back of the bay where Melfi and I were, it was 4:05pm. I then texted my wife to come pick me up from work, as I felt I couldn't walk home, because I felt that if I were to walk home like I normally do, that Justin would keep following me and harassing me." I then said to Melfi, in the captains presence, "You want to talk to me , you got me until Kathy comes to get me." The three of us then went to the Captains office. I sat in the captains chair at a desk, Captain Bennett sat at another desk and Melfi stood. Due to the fact that Melfi wasn't sitting down, I felt that I needed to stand back up because I didn't want to feel at a disadvantage if he lunged and me. That is how I actually felt due to his behavior. We then discussed Melfi's buy back holidays. Melfi then got his phone out and asked me if I needed to read the contract, and I told him that I didn't need to. He then said, " oh, so you're already aware of this" and then we both sat down. I then said, " lets discuss this" and he said his version of how he thought things

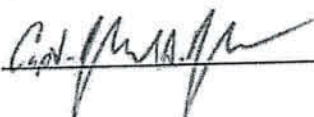


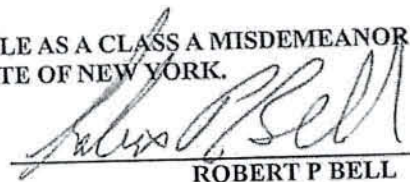
should be with the pay. While he was stating his case he had an aggressive tone and he was aggressively gesturing with his hands. I asked him why he was being so confrontational, and he said that he had been trying to get a hold of me all day. I then asked him what time had he tried to contact me and he said that he tried to call me from station one and he tried to call my cell phone. I then said, " Lets go to my office and I'll check my phone." We all then got up and went in to my office.. I checked my phones, and there were missed calls from station one at 3:20pm. We then sat down and I explained to him how the buy back holidays are handled. I explained to him that at that point we were not sure if he was entitled to the holidays in question or not, he then stated that we would be wasting the tax payers money paying an attorney to settle this and that he was a tax payer. Melfi then said " Why are you guys trying to back me into a corner?" and I asked " What guys? What are you talking about?". Melfi replied " You and Pat Zink." I asked him why he felt that way, and he said that his father had told him that that was the case. I told him that we needed to get back on the subject of his holidays. I again went over the procedure of how the holidays are handled. Melfi started talking about FMLA, and I told him that the matter will be evaluated, and if he is entitled to it he will get the pay, if hes not, then he won't. At that time, at 4:18pm, I got a text from my wife stating that she was here to pick me up. He kept ranting about FMLA and how it needs to be handled and who else had been on FMLA. I did not see this conversation ending on its own as it seemed to me that Melfi was not letting the matter go. I got up to leave and walked past him out the door, and Melfi's aggression level increased back up as he started shouting at me as I was walking down the stairs, " What are you afraid of? You need to be a man. What are you embarrassed of?" I turned around on the stairs and I saw that Captain Bennett had a hold of the railing and the door handle in what appeared to me to be an attempt at keeping Melfi and I physically separated. Captain Bennett then asked me if I wanted the door to my office locked, and I said, " Yes, but I need to get my keys first.", and I went in and got my keys. I got my keys, locked and shut my door, and I started to go down the stairs. as I was going down the stairs, Melfi yelled at me " You need to be a man, Chief". at this point I said to Captain Bennett, " Captain, you need to take care of him." I then left .

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I AM AT Police Department Supervisor's Office WHERE I AM GIVING THIS STATEMENT TO CAPT MICHAEL A MARSFELDER WHO IS TYPING IT FOR ME, AND I HAVE READ IT AND IT IS THE TRUTH.

FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK.

WITNESS: 

  
ROBERT P BELL

WITNESS: \_\_\_\_\_